

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

Clerk's Minutes

Before the Honorable Chief Judge William P. Johnson

Case No.: CR18-2945 WJ

Date: 7/5/2022

Parties: USA v. Hujrah Wahhaj

Courtroom Clerk/Law Clerk: R. Garcia/Steven Foster

Court Reporter: M. Loughran

Interpreter: N/A

Type of Proceeding: Hearing on (Doc. 414) Attorney Theresa Duncan's Motion to Withdraw as Counsel for Hujrah Wahhaj

Place of Court: Albuquerque

Total time in Court: 35 minutes

Evidentiary Hearing: NO

Attorneys Present for Plaintiff(s):
Jackson Hall

Attorneys Present for Defendant(s):
Theresa Duncan and Donald Kochersberger

Proceedings:

1:39 Court in session; counsel enter appearances; Defendant present.

The Court notes a portion of this hearing will be held in ex parte session without the Government.

Ms. Duncan addresses the Court in support of her motion to withdraw.

The Court notes this is not a capital case and there is no precedent that would mandate 2 attorneys; Ms. Duncan notes there is no statute requiring 2 attorneys; but, notes this remains a complex case requiring 2 attorneys; discusses impact of her client's complaint filed with the State Supreme Court; notes client's complaint has been dismissed; notes complaints are confidential and not shared with the public or the Government.

The Court refers to Ms. Duncan's motion and inquires further re allegations and the stated basis for her request to withdrawal; Ms. Duncan responds.

The Court asks Mr. Kochersberger if there is anything he wishes to add at this time; at some point, Mr. Kochersberger would like to address the need for assistance of co-counsel in this case.

The Court asks Ms. Duncan if she would have any issue with filing, under seal, the State Supreme Court's letter of findings re complaint against her; Ms. Duncan will send the letter to the Court's CRD for filing under seal; Court notes it will not view the letter and will keep under seal in case it's needed at some point.

1:56 Mr. Hall responds re Ms. Duncan's motion to withdraw; defers to the discretion of the Court with a couple of comments; notes the Government does not believe second counsel is necessary at this point; alternatively, Ms. Duncan could remain on the case as standby counsel or the Court could deny the motion altogether; Mr. Hall notes the Government does not believe this case is so complex as to necessarily require 2 attorneys; understands Mr. Kochersberger and Defendant are developing a good relationship; believes the case is in a posture, with the conclusion of discovery, that may allow solo counsel to handle the matter; acknowledges that, should the Court decide on one or two attorneys, it may be the best time, although there is no good time, for the withdraw of counsel.

2:01 The Court notes upcoming competency issue re one of the defendants; depending on its findings, the Court believes the case will move forward as a 4 defendant case or 5 defendant case; cites to case law in the Government's Response re recurring issues concerning defense counsel and Defendant, in effect, Defendant waiving counsel and the Court treating Defendant as pro se and allowing counsel to act as stand-by counsel; notes additional cases cited by Government in its motion; conducts colloquy with Mr. Hall.

2:06 Ms. Duncan responds; Court conducts colloquy with Ms. Duncan.

2:10 Court moves to ex parte session w/out the Government.

2:40 Court back in session with the Government.

The Court advises Mr. Hall that it will grant Ms. Duncan's motion to withdraw; notes need to appoint co-counsel to assist Mr. Kochersberger in moving case forward; Court addresses Defendant re need to work with counsel to avoid delay.

2:44 Court in recess.